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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,548	09/30/2005	Kunio Kamata	279057US0PCT	3923
22850	7590	02/22/2008	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			LI, BAO Q	
			ART UNIT	PAPER NUMBER
			1648	
			NOTIFICATION DATE	DELIVERY MODE
			02/22/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

## Office Action Summary

**Application No.**

10/551,548

**Applicant(s)**

KAMATA ET AL.

**Examiner**

Bao Qun Li

**Art Unit**

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 4 and 6-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/30/2005</u>   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of group I, claims 1-5 in the reply filed on Nov. 20, 2008 is acknowledged. The traversal is on the ground(s) that Tobia et al. do not teach the alkaline buffer containing surfactant and polymer. Applicants' argument has been considered. Group I and group II are rejoined. Therefore, claims 1-9 are all considered.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 11/30/2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

3. The information disclosure statement filed 11/30/2005 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

4. The information disclosure statement filed 11/30/2005 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

***Priority***

5. Acknowledgment is made of applicant's claim for foreign priority based on an application JAPAN 2003-095349 filed in JP on March 31, 2003. It is noted, however, that applicant has not filed a certified copy of JAPAN 2003-095349 application as required by 35 U.S.C. 119(b).
6. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of interference, a certified English translation of the foreign application must be submitted in reply to this action. 37 CFR 41.154(b) and 41.202(e).
7. Failure to provide a certified translation may result in no benefit being accorded for the non-English application.

***Information Disclosure Statement***

8. The information disclosure statement filed Nov. 30, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.
9. The information disclosure statement filed on Nov. 30, 2005 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

***Specification***

10. Claims 4 and 6-9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claims 3 and 4. See MPEP § 608.01(n). Accordingly, the claims 4 and 8 have not been further treated on the merits.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims interpretation: it is noted that the preamble language recited in claim 1 is not considered as a limitation of the claimed diluent or reagent because it only indicates that the diluent is capable of using for a norovirus or sapovirus specimen rather than it contains a norovirus or sapovirus.
13. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Tobia et al. (Neth. J. Pl. Path. 1982, Vol. 88, pp. 171-183).
14. Tobia et al. describe an alkaline buffer (pH 9) used for dissolving sucrose and virus fractions.
15. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by GIBCO BRL LIFE TECHNOLOGIES (2000-2001 catalog, page 22-26).
16. GIBCO BRL LIFE TECHNOLOGIES proves alkaline TBE buffer with pH about 8.9  $\pm 0.1$ .
17. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hibi (1985, Vol. 66, pp. 1191-1194).
18. Hibi et al. describe a Tris buffer saline pH9.6. The buffer contains 0.1M NaCl and 0.5 mM MgCl. Therefore, claim 1 is anticipated by the reference.
19. Claims 1, 3, and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Holdworth (1987, Planta, Vol. 172, No. 4, pp.539-547 ).
20. Holdworth et al. teach a TBS pH9.0 and contain Tween 20 surfactant. Therefore, the reference anticipates the claims.
21. Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Bicova et al. (J. Chromatography A, 1999, Vol. 852, pp. 141-149 ).
22. Bikoca et al. teach borate buffer pH 9.0 used for crosslink an antibody. Therefore, the claims 1-2 anticipate the claims.
23. Claims 1, 4, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by WO/1991005817 to Larm et al.
24. Larm et al. teach a alkaline buffer pH 9 Polymer, (polyamine). Therefore, claims 1, 4, 5 anticipated by the cited reference.

25. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hill et al. (Proceeding – Water Quality Technology Conference 2002, pp. 672-283).

26. Hill et al. describe a alkaline buffer with pH 9.5 that is used for the isolating corovirus (see abstract). Therefore, claim 1 is anticipated by the cited reference.

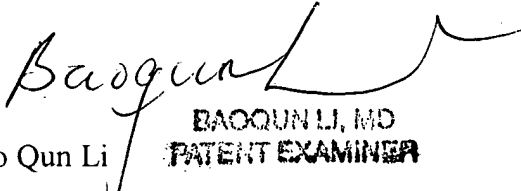
***Conclusion***

27. No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Qun Li whose telephone number is 571-272-0904. The examiner can normally be reached on 6:30 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Bao Qun Li  
2/3/2008

BAOQUN LI, MD  
PATENT EXAMINER